

Internal Revenue Service

District Director

[REDACTED]

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to : EP/EO

Date: JUN 21 1994

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and other wise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[REDACTED]

District Director

Enclosures: 3

6/14/94

6/17/94

[REDACTED]

The application submitted indicates that the organization was incorporated on [REDACTED] in the state of [REDACTED]. It is a membership organization with [REDACTED] members. The annual dues are currently \$[REDACTED] and are subject to annual adjustment to cover the expenses of the organization.

The only other source of income for the organization was the sale of timber in [REDACTED] for \$[REDACTED]. Total income for the most recent [REDACTED] year period is \$[REDACTED]. Therefore, the sale of timber constitutes [REDACTED]% of the total income of the organization.

The purpose of the organization is to hold title to property to provide recreational opportunities of fishing and hunting to the individual members and their guests. Each member uses the property approximately 1 or two periods a year for a 3 or 4 day time span. Since the organization was incorporated, the only organized meeting was held on [REDACTED] to perform maintenance on the cabin.

The facilities of the organization consist of a cabin and [REDACTED] acres of forest.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(a) of the Regulations states that the exemption provided by section 501(a) of the Code for an organization described in section 501(c)(7) of the Code applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Section 1.501(c)(7)-1(b) of the Regulations states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under section 501(a) of the Code. Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption. As previously noted, section 501(c)(7) of the Code requires that substantially all of a social club's activities be social or recreational activities for members. However, Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35 percent of its gross

receipts, including investment income from sources outside its membership without losing exemption. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of the total receipts.

Section 501(j) of the Code prohibits exemption under section 501(c)(7) for any club for any taxable year if "...at any time during such taxable year, the charter, bylaws, or other governing instrument of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion."

Although there is no statutory definition of "club" as used in Internal Revenue Code 501(c)(7), it implies the existence of personal contact, commingling of members as an indication that the basic purpose of the organization is only to provide personal services and goods to the membership in a manner similar to commercial counterparts. Revenue Ruling 69-635, 1969-2 C.B. 126.

Revenue Ruling 70-32, 1970-1 C.B. 132 held that a flying club providing economical flying facilities for its members but having no organized social and recreational program does not qualify for exemption under Section 501(c)(7) of the Internal Revenue Code. The sole activity of the club involved the ownership, operation and maintenance of an aircraft for use by the members. There was little commingling among the members for social and recreational purposes.

Revenue Ruling 55-716, 1955-2 C.B. 263 the absence of fellowship as a material factor in the life of an organization resulted in nonrecognition of exemption to an association formed for the purpose of furnishing television antenna service to its members. The organization was found to generally not afford contact among members.

Based on the above facts and the applicable law and precedent, [REDACTED] fails to qualify for exemption under 501(c)(7) because the income received from non-members exceeds the 35% allowable income from a combination of investment income and non-member income, it lacks commingling and fellowship for social and recreational purposes and it primarily provides personal benefits to members.